

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1246 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

CHANCHALBEN GAMBHIRSING DIPSING SINCE DECEASED HEIRS & L.R.

Versus

STATE OF GUJARAT

Appearance:

MR KB PADIA for Petitioners
Mr R V Desai, AGP for Respondent No. 1
NOTICE SERVED for Respondent No. 2, 3, 4

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 01/12/2000

ORAL JUDGEMENT

This is a petition under Article 226 of the Constitution of India, filed by the petitioner for appropriate writ, order or direction directing respondent

No.3 to grant permission to the petitioner for using the land in question for agricultural purpose in terms of her application dated 16.3.1992 placed at Annexure 'A' at page 7 addressed to the third respondent for the said purpose. The deceased petitioner was the owner and occupant of an agricultural land bearing survey no.150 situated in village Bolav in Olpad Taluka, Surat District. It appears that she had applied for permission for using the said land for non-agricultural purpose, which was granted on 8.7.1983. The petitioner claims that she did not have sufficient monetary resources for developing the said land and, therefore, she was not in a position to use the said land for non-agricultural purpose. She, therefore, requested the third respondent, by the aforesaid application dated 16.3.1992, for cancelling the said permission for using the said land for non-agricultural purpose and for converting the said land as agriculture land. It appears that there was no response to the said application of the petitioner and, therefore, the petitioner has come to this court with the aforesaid prayer.

2. On receipt of the said petition, notice was issued at the first instance and it was followed by rule. Mr R V Desai, learned AGP appears in response to the service of Rule. When the matter was called out, none was present on behalf of the petitioner. Therefore, I have heard the learned AGP Mr R V Desai on behalf of the respondents. On going through the petition and the accompaniment to the petition, it appears to be a case that agricultural land described hereinabove was permitted to be converted for non-agricultural use at the instance of the petitioner. It is also borne out that the petitioner was unable to use the said land for non-agricultural purpose. Therefore, she has applied for cancellation of the said permission and for reconversion of the land for being used as agriculture land. The said application was submitted, according to the case of the petitioner on 16.3.1992. Yet the said application does not appear to have been disposed of and, therefore, the petition has been filed as aforesaid. When an application is made to the Government or to an officer or appropriate authority, then, it is the duty of the officer concerned to decide the said application within a reasonable time. The application is shown to have been submitted on 16.3.1992 as per page 7 of the petition. The petition has been filed in February, 1993. This shows that the said application was not disposed of by the third respondent within a span of about 12 months. This is not a heavy matter requiring consideration of so many documents, facts, circumstances and evidence.

Therefore, the third respondent could have disposed of the said application within a span of 12 months. When the matter has been called out, none is present on behalf of the petitioner, and therefore, it is not possible to ascertain as to whether the said application is still pending or has been disposed of. At the same time, an inference can be drawn from the fact that none is present on behalf of the petitioner, and that the application must have been decided by the said authority. Any way, the fact remains that if the said application has not been decided till today, some time may be given to the third respondent for appropriate decision on the said application. This can be done by allowing this petition.

3. In above view of the matter, the present petition is partly allowed and the third respondent is directed to consider and decide the application of the petitioner dated 16.3.1992 for permission to use the land referred to hereinabove for agricultural purpose, within a period of three months from the date of receipt of the order, provided the said application has not been disposed of. Learned AGP will convey this order to the said authority with a view to enable him to take decision within the time stipulated hereinabove. It is more so, when none is present on behalf of the petitioner. In case, the decision has already been taken, then, the third respondent shall convey the said decision by Registered A.D. post to the petitioner. At the same time, if the decision has not been taken till now, it shall be taken within three months as aforesaid and the decision so taken shall be conveyed to the petitioner by Registered A.D. post.

This petition is, therefore, allowed as above. Rule is made absolute accordingly. In the facts and circumstances of the case, there shall be no order as to costs.

1.12.2000 [D P Buch, J.]
msp